

THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

MICHAEL AND SHELLIE GILMOR,  
et al.,

Plaintiffs,

vs.

PREFERRED CREDIT CORPORATION,  
et al.,

Defendants.

Case No. 4:10-cv-00189-ODS

**AMENDED NOTICE OF DEPOSITION**

To:

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Attorneys for Defendant Deutsche Bank National Trust Company

**YOU ARE HEREBY NOTIFIED** that pursuant to Federal Rule of Civil Procedure 30(b)(6), Deutsche Bank National Trust Company shall designate one or more persons to testify on its behalf with respect to the matters set forth in **Exhibit A**. The deposition will be recorded by stenographic means and will be used in the above-entitled cause on the part of Plaintiffs and the Class. The deposition will be taken at **Esquire Solutions, 535 Anton Boulevard, Suite 400, Costa**

Mesa, California 92626 on Thursday, September 20, 2012 at 9:00 a.m. and shall continue thereafter from day to day until concluded.

A list of the matters upon which the representative(s) will be examined is attached as

**Exhibit A.**

Dated: August 22, 2012

Respectfully submitted,

WALTERS BENDER STROHBEHN  
& VAUGHAN, P.C.

By: /s/ R. Frederick Walters

R. Frederick Walters – Mo. Bar 25069  
Kip D. Richards – Mo. Bar 39743  
David M. Skeens – Mo. Bar 35728  
Karen W. Renwick – Mo. Bar 41271  
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**ATTORNEYS FOR PLAINTIFFS  
AND CLASS COUNSEL**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this the 22<sup>nd</sup> day of August 2012, I electronically filed the above and foregoing document with the Clerk of Court of the Western District of Missouri using the Court's ECF system, which will send notification of said filing to all counsel of record who are ECF participants. In addition, a copy was served by U.S. mail, First-Class Postage Prepaid, to:

Arthur E. Kechijian, Manager  
United Mortgage C.B., LLC  
P.O. Box 471827  
Charlotte, NC 28247  
**Defendant United Mortgage C.B., L.L.C.**

/s/ *R. Frederick Walters*

## **EXHIBIT A**

### **DEFINITIONS**

1. **Deutsche Bank National Trust Company, You or Your.** The name “Deutsche Bank National Trust Company,” “You,” and “your,” shall refer individually and collectively to the Defendant Deutsche Bank National Trust Company, its officers, directors, employees, attorneys, investigators or other representatives or agents, and to any merged, consolidated or acquired predecessor or successor corporation or entity related to Deutsche Bank National Trust Company, and includes the trusts previously and currently holding the Class Members’ Loans, all employers of all persons executing any verification pages on interrogatories propounded by Plaintiffs to Deutsche Bank National Trust Company, or any persons previously appearing for a deposition in this matter on behalf of Deutsche Bank National Trust Company.

2. **Class Members’ Loans.** The term “Class Members’ Loans” means those second mortgage loans secured by an interest in residential real estate in Missouri that was (1) originated by Preferred Credit Corporation (f/k/a Preferred Mortgage Corp.) (a/k/a T.A.R. Preferred Credit) (a/k/a T.A.R. Preferred Mortgage Corporation) and (2) was purchased, received by assignment, otherwise acquired by, or serviced by Deutsche Bank National Trust Company, and will include those loans that were acquired by or placed into any trust for which You were the trustee (including but not limited to the following trusts: Impac Real Estate Asset Trust Series 2006-SD1, Impac Secured Assets CMN Trust Series 1998-1, Impac CMB Trust Series 1999-2, Impac CMB Trust Series 2000-2, Impac CMB Trust Series 2001-4, Impac CMB Trust Series 2002-1, and Impac CMB Trust Series 2003-5) and/or any loans that are identified by you in your answers to Plaintiffs’ Interrogatories.

3. **Preferred Credit Corporation.** The term “Preferred Credit Corporation” includes Preferred Credit Corporation, Preferred Mortgage Corp., T.A.R. Preferred Credit, and T.A.R. Preferred Mortgage Corporation.

## **MATTERS UPON WHICH EXAMINATION IS REQUESTED**

### ***Responses to Plaintiffs' Discovery***

1. Deutsche Bank National Trust Company's disclosures and responses to Plaintiffs' interrogatories and request for production of documents, including any amended and supplemental responses thereto.

### ***Your Corporate Structure and Organization***

2. The names and organization of all entities or trusts through which You acquired, serviced or sub-serviced the Class Members' Loans.

3. The corporate organization or structure that includes Deutsche Bank National Trust Company and any successors or predecessors thereto.

4. The identity and organization of all departments or operating divisions with responsibility for the service as trustee for trusts holding mortgage loans or the acquisition of mortgage loans, including the Class Members' Loans.

### ***Record Retention and Authentication***

5. With respect to the documents and records requested by Plaintiffs in this lawsuit: (a) the existence and whereabouts of all requested documents and records; (b) your search for all documents and records; (c) persons with responsibility for the search for responsive documents and records; and (d) the identity(ies) of all custodians of documents.

6. With respect to the loan files and loan payment histories for the Class Members' Loans: (a) their past and current existence; (b) their past and current whereabouts; (c) your search for the loan files and loan payment histories for the Class Members' Loans; (d) persons with responsibility for the search for the loan files and loan payment histories for the Class Members' Loans; and (e) the identity(ies) of all custodians of the Class Members' loan files and

loan payment histories.

7. With respect to all documents and records concerning your relationship and agreements with any of the Defendants in this lawsuit, including Preferred Credit Corporation: (a) their past and current existence; (b) their past and current whereabouts; (c) your search for all documents and records concerning your relationship and agreements with any of the Defendants in this lawsuit, including Preferred Credit Corporation; (d) persons with responsibility for the search for all documents and records concerning your relationship and agreements with Preferred Credit Corporation; and (e) the identity(ies) of all custodians of all documents and records concerning your relationship and agreements with any of the Defendants in this lawsuit, including Preferred Credit Corporation.

8. Your record retention requirements, record keeping system(s) and document/information-retention policies including, without limitation, the method(s) by which You kept or maintained the documents and electronic data generated in connection with Your service as trustee with respect to the Class Members' Loans, the acquisition of the Class Members' Loans or your servicing or sub-servicing of the Class Members' Loans or any loans originated by Preferred Credit Corporation.

#### ***State Licensure***

9. Your license in Missouri, or any license exemption in the State of Missouri, which permits You to originate, acquire, service and/or sub-service mortgage loans as trustee or otherwise.

#### ***Agreements with the Defendants and/or the Originating Lender***

10. Your relationship with Preferred Credit Corporation, including the nature of all agreements, amendments to agreements, or commitments to purchase or acquire, with respect to

the origination, purchase, acquisition and/or sale of mortgage loans. The inquiry will include, but not be limited to, Your knowledge of (and any original and/or continued efforts to determine) Preferred Credit Corporation's residential second mortgage lending operations and practices in general, the type and amount of loan fees and closing costs that Preferred Credit Corporation would assess and/or was assessing for those loans, the projected and/or actual amount of revenue that Preferred Credit Corporation sought to receive and/or realize per loan and its source, any documents supplied by or obtained from Preferred Credit Corporation in regard to the above matters, and the whereabouts of such documents, if any.

11. Your relationship with any entity from whom you acquired loans originated by Preferred Credit Corporation, including the nature of all agreements, amendments to agreements, or commitments to purchase or acquire, with respect to the origination, purchase, acquisition and/or sale of mortgage loans.

12. Your periodic or annual reviews of your relationship with Preferred Credit Corporation.

13. Your periodic or annual reviews of your relationship with any entity from whom you acquired loans originated by Preferred Credit Corporation.

14. The termination of any trusts holding the Class Members' Loans.

15. All agreements related to your service as trustee with respect to the Class Members' Loans, the acquisition of the Class Members' Loans or your servicing or sub-servicing of the Class Members' Loans or any loans originated by Preferred Credit Corporation.

16. Any other agreement, and any amendments thereto, through which You serviced, sub-serviced or purchased, received by assignment, served as trustee, or otherwise acquired loans originated by Preferred Credit Corporation.

17. Your relationship with the defendants in this lawsuit, including Preferred Credit Corporation, including the nature of all agreements, amendments to agreements, or commitments to purchase, with respect to the service as trustee, or servicing, sub-servicing, origination, acquisition, purchase and/or sale of mortgage loans.

***Loan Investors***

18. The identities of the Investors on the Class Members' Loans.

19. All services performed by you for or for the benefit of the Investors on the Class Members' Loans.

***Loan Acquisition and Purchase***

20. Your acquisition or purchase of the Class Members' Loans. The inquiry will include, but will not be limited to, the manner in which the purchase price for the loans You purchased was paid (e.g., the identities of the payees and payors, the accounts from and to which the money was withdrawn, sent or deposited, and the timing and terms of payment).

21. The representations, warranties, disclosures, certifications and verifications made by You, or received by You, in conjunction with the securitization of the Class Members' Loans.

22. The process used by You to receive, review, analyze and/or approve for purchase or acquisition the Class Members' Loans. The inquiry will include, but not be limited to, any due diligence and compliance reviews of the loans proposed or performed by You, or by an independent consultant on your behalf, or by another person or consultant that reviewed the loans and shared its findings with You. The nature, extent and purpose of such due diligence and compliance reviews, the procedures to be followed, the identities of the persons and consulting firms who performed the reviews, the findings and conclusions reached, and the documents generated as a result, will be covered. This Matter specifically also includes, but is not limited

to, any due diligence and compliance reviews undertaken by You or others to determine whether the loans (a) complied with Federal laws; (b) complied with California state laws; (c) complied with Missouri state laws; and/or (d) complied with the laws of any other states.

23. Any agreements with Preferred Credit Corporation and/or any entity from whom you acquired loans originated by Preferred Credit Corporation with respect to the purchase or acquisition of mortgage loans covered by the provisions of the Home Ownership and Equity Protection Act, including 15 U.S.C. §1602(aa) and/or 12 C.F.R. § 226.32.

24. Your policies and procedures for the determination of prices or premiums paid by You in connection with Your purchase or acquisition of loans from Preferred Credit Corporation and/or any entity from whom you acquired loans originated by Preferred Credit Corporation.

25. Your policies and procedures for the transmission of loan files, and any documents within those files, to You and/or to any other entity or third party performing custodial or other services for You, in connection with loans acquired by You, including Class Members' Loans.

26. Your policies and procedures for the receipt and retention of original or authentic legal documents or records from the Class Members' Loan files by You and/or any other entity or third party performing custodial or other services for You.

27. With respect to the final HUD-1A Settlement Statement for each of the Class Members' Loans: (a) their past and current existence; (b) their past and current whereabouts; (c) your search for final HUD-1A Settlement Statement for each of the Class Members' Loans; (d) persons with responsibility for the search for final HUD-1A Settlement Statement for each of the Class Members' Loans; and (e) the identity(ies) of all custodians of the final HUD-1A Settlement Statement for each of the Class Members' Loans.

28. The electronic information and other data generated by You or for You in connection with your acquisition of the Class Members' Loans, including, all electronic operating systems or computers programs used by You in connection with your acquisition or purchase of mortgage loans.

29. The identification of all electronic records maintained by You or for You concerning the Class Members' Loans.

30. The identification and/or use of any policies, guidelines, or procedures, computer programs, internet-based applications that You used or relied upon to review, consider, analyze or approve, accept or reject loans submitted for your purchase or acquisition from Preferred Credit Corporation and/or any entity from whom you acquired loans originated by Preferred Credit Corporation.

#### ***Ownership of Loans and Participation Sales***

31. The identities of any and all entities having any ownership interest in the Class Members' Loans, including the nature and description any ownership interest in the Class Members' Loans.

#### ***Trustee Service, Loan Servicing and Sub-Servicing***

32. Your service as the trustee of (1) the following trusts: Impac Real Estate Asset Trust Series 2006-SD1, Impac Secured Assets CMN Trust Series 1998-1, Impac CMB Trust Series 1999-2, Impac CMB Trust Series 2000-2, Impac CMB Trust Series 2001-4, Impac CMB Trust Series 2002-1, and Impac CMB Trust Series 2003-5; and (2) any other trust that owned, acquired and/or held one or more Class Members' Loans.

33. The loan securitizations involving the Class Members' Loans, including any Closing Documents, Prospectuses or Prospectus Supplements related to the Class Members'

Loans.

34. The servicing and/or sub-servicing of the Class Members' Loans, including the identities and descriptions of any operations or actions performed with respect to the Class Members' Loans by any "servicer," "master servicer or "subservicer."

35. The agreements, and amendments thereto, which relate to or govern your service as trustee with respect to the Class Members' Loans or the servicing or sub-servicing of the Class Members' Loans and the acquisition or transfer of the servicing rights to the Class Members' Loans.

36. The loan payment or loan servicing histories for the Class Members' Loans.

37. The identification of Your policies and procedures, the documents or records which You relied upon, and the computer programs, Internet-based services or other applications that were used by You or that were relied upon by You to satisfy any due diligence or compliance requirement, or to perform such functions for You, in connection with your service as trustee with respect to the Class Members' Loans or Your servicing or sub-servicing of mortgage loans, including the Class Members' Loans.

38. The creation, maintenance and use of electronic records by You in connection with your service as trustee with respect to the Class Members' Loans, the acquisition of the Class Members' Loans, or the servicing or sub-servicing of the Class Members' loans.

39. Your use and reliance upon any electronic records of loan payments or loan payment or collection histories or summaries which were created, maintained or used by any entity servicing or sub-servicing the Class Members' loans, including the interpretation and authentication of such summaries or reproductions of such electronic records.

40. Access to, use and electronic copies of the electronic data that makes up the loan payment histories with respect to the Class Members' Loans.

41. Definitions, keys, lists of possible reports, or sorts of such data or other information necessary to understand the electronic data maintained by You or any other entity with respect to the Class Member's Loans, including the interpretation and authentication of such information.

42. The data and documents that were provided to You and/or required by You at the time of or in connection the acquisition of the Class Members' Loans or your service as trustee with respect to the Class Members' Loans.

43. All documents and data concerning the Class members' loans that You reviewed and/or relied upon in connection with or your service as trustee with respect to the Class Members' Loans or your servicing or sub-servicing of the Class members' loans.

#### ***Audits and Loan Repurchases***

44. Any audits of You or your operations performed by You, a third party retained by You, a third party not retained by You, or any state or federal regulator.

#### ***Documents Produced by You***

45. The documents produced by You in this lawsuit.

#### ***Joint Defense Agreements***

46. Your agreements, if any, with any other Defendant or Defendants related to the defense of this lawsuit.

#### ***Third Party Services in Connection with the Servicing or Sub-Servicing of Mortgage Loans***

47. The services performed by any third parties or consultants in connection with your service as trustee with respect to the Class Members' Loans, your acquisition of the Class

Members' Loans, or your servicing of the Class Members' Loans or your service as trustee with respect to the Class Members' Loans or any loans originated by Preferred Credit Corporation, including the nature of any independent audits, accountings, reports or due diligence or compliance services that were performed for you or that you reviewed or relied upon in connection with your service as trustee with respect to the Class Members' Loans, the acquisition of the Class Members' Loans or your servicing or sub-servicing of the Class Members' Loans or any loans originated by Preferred Credit Corporation.

***Representations and Warranties***

48. Any representations and/or warranties made by any of the Defendants, or any other entity, including Preferred Credit Corporation, connection with your service as trustee with respect to the Class Members' Loans, the acquisition of the Class Members' Loans or your servicing or sub-servicing of the Class Members' loans.

49. The identification of all of Your policies and procedures, all documents or records which You relied upon, and all computer programs, Internet-based services or other applications that were used by You or that You relied upon in connection with your reliance on the representations and/or warranties made by any of the Defendants, or any other entity, including Preferred Credit Corporation, connection with your service as trustee with respect to the Class Members' Loans, the acquisition of the Class Members' Loans or your servicing or sub-servicing of the Class Members' loans.

50. Your contention, if any, that any of the Defendants, or any other entity, including Preferred Credit Corporation, breached or violated any representation or warranty made to You pursuant to any agreement related to your service as trustee with respect to the Class Members' Loans, the acquisition of the Class Members' Loans or your servicing or sub-servicing of the

Class Members' loans.

51. Any claims or demands for indemnity or contribution made by You in connection with or as a result of this lawsuit.

***Compliance and Due Diligence***

52. Your due diligence and compliance review of loans in connection with your service as trustee with respect to the Class Members' Loans, the acquisition of the Class Members' Loans or your servicing or sub-servicing of the Class Members' loans servicing or sub-servicing of loans, including the Class Members' Loans.

53. The policies and procedures used by You or relied upon by You, including your use of any computer programs, Internet-based services or other applications to determine whether the loans in trusts for which you served as trustee, acquired or serviced or sub-serviced complied with any applicable state or federal laws.

54. Your policies and procedures, the documents or records which You relied upon, and all computer programs, Internet-based services or other applications that were used by You or that were relied upon by You to determine whether the originating lender, including Preferred Credit Corporation, charged, contracted for and/or received any closing cost or settlement charge not permitted or authorized by state law, including Missouri law, in connection with the mortgage loans in trusts for which you served as trustee, acquired or serviced or sub-serviced that, including loans originated by Preferred Credit Corporation and the Class Members' Loans.

55. Your policies and procedures, the documents or records which You relied upon, and all computer programs, Internet-based services or other applications that were used by You or that were relied upon by You to determine whether the originating lender, including Preferred Credit Corporation, charged, contracted for and/or received any closing cost or settlement charge

not permitted or authorized by Missouri law in connection with the mortgage loans in trusts for which you served as trustee, acquired or serviced or sub-serviced that, including loans originated by Preferred Credit Corporation and the Class Members' Loans.

56. The identification and/or use of any policies, guidelines, or procedures, computer programs, internet-based applications or charts that You used or relied upon to determine whether the settlement charges and fees charged on the Class Members' Loans complied with Missouri state law or regulation.

57. The identity, use and whereabouts of any charts, matrix or matrices, schedules, summary, publications, resource materials or other documents, including all computer programs, Internet-based services, and electronic applications and mechanism, used by You or relied upon by You or that You consulted in conjunction with your service as trustee with respect to the Class Members' Loans, the acquisition of the Class Members' Loans or your servicing or sub-servicing of the Class Members' Loans or any loans originated by Preferred Credit Corporation. to determine whether the originating lender, including Preferred Credit Corporation, charged, contracted for and/or received any closing cost or settlement charge not permitted or authorized by state law, including Missouri law.

#### ***Other Litigation***

58. Other litigation to which you are a party related to your acquisition, servicing or sub-servicing of mortgage loans.